



City of Seattle

Gregory J. Nickels, Mayor
Department of Planning and Development
D. M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Application Number: 2307458
Applicant Name: Kathy Orni
Address of Proposal: 12033 12th Avenue NW

SUMMARY OF PROPOSED ACTION

Master Use Permit to subdivide one lot into two. Proposed lot sizes are: A) 140,781 sq. ft. and B) 63,630 sq. ft. The existing single-family residence and accessory structure on proposed Lot A will remain. The site contains three *Environmentally Critical Areas: Steep Slope, Known and Potential Slide, and Wildlife Habitat Conservation*.

The following approvals are required:

Short Subdivision - to divide one parcel of land into two parcels.
(Seattle Municipal Code Chapter 23.24)

SEPA – Environmental Determination – Review of development proposals in areas mapped as Environmentally Critical Areas, Chapter 25.05, Seattle Municipal Code.

SEPA DETERMINATION: ☐ Exempt ☒ DNS ☐ MDNS ☐ EIS

 ☐ DNS with conditions

 ☐ DNS involving non-exempt grading or demolition or
 involving another agency with jurisdiction

BACKGROUND DATA

Zoning: SF 9600

Date of Site Visit: December 9, 2003

Uses on Site: Single Family residence and accessory guest structure.

Site and Vicinity Descriptions: The project site is located at 12033 12th Avenue NW. It is approximately 204,411 square feet in area and extends from 12th Avenue NW westward over 400 feet to where it borders the BNSF Railroad right of way which itself borders the shoreline of Puget Sound. The site contains mapped Environmentally Critical Areas (ECA's): *steep slopes, known and potential slide, and wildlife habitat conservation areas*. All ECA's areas are located in approximately the western two-thirds of the site, which is a very steep bluff area that begins approximately 50 feet to the west of the large single family residence and extends to the western property boundary. The western two-thirds, approximately, of both proposed Lots A and B therefore are comprised of the above ECA's.

Proposed Lot B is largely undeveloped; it does not contain any structures except a gazebo close to the crest of its section of bluff. This proposed lot contains numerous large trees, approximately 60 of various varieties. Among the trees on proposed Lot B are three (3) that meet the dimension requirements to be classified as *exceptional* trees, and therefore may be required to be preserved. Proposed Lot A has numerous trees and large bushes throughout; none of these are in areas that would require removal for access to any future development on proposed Lot B.

Development in the vicinity is comprised of a mix of large lots with residences to the north along the bluff and newer and smaller lots with residences, which reflects the SF 9600 zoning of the neighborhood extending westward from 12th Avenue NW. Twelfth Avenue NW is paved but does not have curb, sidewalk, or planting strip improvements.

Proposal

The proposal is to short subdivide one platted lot into two lots. Proposed Lot A will contain 140,781 sq. ft. and proposed Lot B will contain 63,630 sq. ft. The existing single family residence and accessory structure on proposed Parcel A will remain. The site contains Environmentally Critical Areas, *steep slopes, known and potential slide, and wildlife areas* as outlined above. Exclusive of all ECA's, the remaining non-ECA area of each proposed lot is as follows: Lot A: 69,046 sq. ft and Lot B: 25,475 sq. ft.

Vehicular access to proposed Lots A and B will be provided by the existing driveway extending from 12th Avenue NW to the existing structures and south to the area of proposed Parcel B.

The applicant has applied for and received a *waiver* from the *topographic* application submittal requirement of SMC 25.09.060, which requires a surveyed site plan to show existing topography with 2-foot contour lines (ECA Modifications to Submittal Requirements, MUP 2307364, approved October 16, 2003). This requirement was waived due to the extremely steep nature of the areas below the crest of the bluff – in some areas it is essentially a vertical drop - and because no development is or will be proposed within the steep slope areas or within the minimum required 15-foot buffer. All other ECA *submittal, general, steep slope, wildlife, and landslide-hazard* and other applicable development standards still apply for this proposal.

Public Comments

The two-week comment period for this proposal ended December 10, 2003. A written request was submitted for a two-week extension to this deadline. One letter was received during the extended comment period and signed by 10 people. The issues raised in the letter expressed concerns about the following: traffic access and flow impacts on the surrounding streets, groundwater impacts, parking impacts, fire and emergency personal access, noise impacts from construction and later from residence appurtenances such as a pool, loss of residential water pressure, the loss of “old timber”, drainage impacts on the surrounding neighborhood, view impacts from above ground utility cables, and loss of wildlife habitat.

Environmentally Critical Area Regulations:

Seattle Municipal Code (SMC) 25.09 establishes standards and submittal requirements that apply to all development and platting within designated Environmentally Critical Areas. Directors Rule 3-94 clarifies and interprets the ordinance requirements to best accomplish the intended goals of the regulations.

Directors Rule 3-94 allows modifications to the submittal requirements for proposals in or containing Environmentally Critical Areas when the applicant demonstrates to the satisfaction of the Director of DPD that a complete submittal is not necessary in order for a review of the proposal for compliance with the substantive requirements of the ECA regulations.

The applicant applied for and received an *exemption* to the submittal requirements of the ECA regulations for the provision of 2-foot contour topographic lines for the ECA *steep slope* that exists in the western portion of both proposed Lots A and B (MUP 2307364, granted October 16, 2003). This request was made because no development will be proposed within the *steep slope* or within the required 15-foot minimum buffer. The slope of the steep slope is so great (well over 100%) that requiring its measurement would be very difficult. This *exemption*, however, does not change the requirements for this proposal to be reviewed under all other ECA *submittal, general, steep slope, landslide hazard, and wildlife conservation habitat area* regulations.

ANALYSIS - SHORT SUBDIVISION

Pursuant to SMC 23.24.040, no short subdivision shall be approved unless all of the following facts and conditions are found to exist. The findings which follow are based upon information provided by the applicant; review of access, drainage and zoning within the Department of Planning and Development (DPD); review from Seattle Public Utilities, Seattle Fire Department and Seattle City Light; and, review by the Land Use Planner.

1. Conformance to the applicable Land Use Code provisions;

The lots created by the proposed short subdivision will conform to all development standards of the SF 9600 zone. Proposed Lots A and B meet the required minimum lot area of this zone. The lot configurations provide adequate buildable area to meet applicable yard and lot coverage requirements and other land use code development standards. Any new development will be reviewed for and must conform to land use code requirements at the time of application.

2. Adequacy of access for vehicles, utilities and fire protection, as provided in Section 23.53.005;

Each of the proposed lots will have adequate access for vehicles, utilities, and fire protection from 12th Avenue NW through the existing driveway that currently extends from 12th Avenue NW to the existing residence on proposed Lot A and to the eastern end of proposed Lot B. This driveway, with the exception of the portion serving only the residence on proposed Lot A, will remain a part of proposed Lot A, but will be available by easement for the benefit of proposed Lot B for utilities and access.

This proposal was reviewed by the Fire Department for emergency vehicle and personnel access. Based on the depth of the parcel, the distance between the property and street access, and the presence of a coded security gate inhibiting SFD emergency access, this short plat is approved with the following mandatory conditions. Any residential structure built on proposed Lot B is required to be protected by automatic sprinklers monitored by an approved central station service. The sprinkler system shall be designed and installed in accordance with the provisions of either NFPA (National Fire Protection Association) 13 or NFPA 13D. A minimum driveway width of twelve (12) feet is required for the driveway easement. Fourteen (14) feet of vertical clearance is required along the length of the driveway for emergency vehicle passage. The sprinkler requirement may be changed if the private access gate is removed and any new structure on proposed Lot B is built on the eastern one-third of the lot.

Seattle City Light provides electrical service to the subject property and has approved this proposal subject to the recording of the easement shown on the submitted preliminary plat (See Attachment A).

3. Adequacy of drainage, water supply, and sanitary sewage disposal;

Review for drainage and sanitary sewage disposal indicates these services are adequately provided for this unit lot subdivision. If any future project creates greater than 5,000 square feet of new or replaced impervious surface, a comprehensive drainage control plan prepared in accordance with SMC 22.802.015 D and 22.802.020 may be required.

Seattle Public Utilities has reviewed this proposal and assures water availability access for all parcels provided the easement shown on the face of the preliminary plat across proposed Lot A for the benefit of proposed Lot B is recorded (See Water Availability Certificate # 2003-1260) (Attachment B).

This area is served with domestic water, sanitary sewer, and storm drain facilities provided by the City of Seattle. Review of this proposal indicates that adequate water supply; sanitary sewage and drainage facilities are available.

4. *Whether the public use and interests are served by permitting the proposed division of land;*

The proposed subdivision is consistent with the relevant land use policies for residential single-family zones and meets the minimum provisions of the Seattle Land Use Code for SF 9600 zones. These policies and provisions are intended to provide opportunities for the creation of additional housing units within the City while protecting existing neighborhood character, the natural environment, and the public health and safety.

The proposal will meet all applicable criteria for approval of a short plat as discussed in this analysis and decision upon completion of the conditions of this decision. The public use and interests are served by permitting the proposed division of land.

5. *Conformance to the applicable provisions of SMC Section 25.09.240, short subdivision and subdivisions in environmentally critical areas;*

The parent parcel to this short plat proposal contains the following Environmentally Critical Areas: *steep slope, known and potential landslide areas*, and a *wildlife habitat conservation area*. All of these ECA's are located on the western three-fifths of the parcel, an area that is not currently developed and is not proposed for development as a result of this short plat. The existing house and developable areas of the parcel that comprise the eastern two-fifths of the parcel are at the top of the bluff that is the beginning of the steep slope area. The existing house is approximately 40 feet from the edge of bluff.

A Geotechnical Evaluation by Terra Associates (dated November 10, 2003) and a Geotechnical Report (dated January 6, 1994) were submitted with the request for an Exemption to the Submittal Requirements for Environmentally Critical Areas (MUP 2307364) and with this short plat application. The Geotechnical Report was originally undertaken as a part of the construction of the existing single-family residence on the site. The Geotechnical Evaluation discussed the Geotechnical Report findings and recommendations in light of the current short plat proposal. In summary, the report found that "subdividing the property would not increase the potential for slope instability on the site or on adjacent properties", and noted that "the geotechnical engineering recommendations and comments outlined in the Geotechnical Report would also be valid for the construction of the residence" on proposed Lot B.

The ECA Regulations restrict development in the above listed environmentally critical areas. Review of the proposal indicates that all of the requirements and restrictions of the ECA Regulations for short subdivisions (SMC 25.90.240) have been met, with the exception of the submission of the ECA Covenant per SMC 25.09.240.A. At least one building site and access to that site that is outside the

identified ECA's and their required buffers has been provided. All lots are configured to preserve the identified ECA's and their buffers. A minimum 15 foot buffer easement is required to be recorded with this short plat as a condition of approval. A larger buffer may be required based on ECA review of future building plans.

The ECA areas received no development credit for use in calculating the number of lots permitted. The area outside of the ECA's on proposed Parcel B will be approximately 25,475 square feet. This area and its configuration provides sufficient area for the type of development allowed in a SF 9600 zone. The area outside of the ECA's on proposed Parcel A will be approximately 69,046 square feet.

Pursuant to SMC 25.09.240.A, the final short plat must include a covenant that restricts development to the areas specified on the approved site plan (those areas outside of the steep slope and its buffer). This covenant must be submitted for review by the land use planner in charge of this proposal. After review and approval, the covenant must be recorded no later than the recording of the final short plat. Additionally, pursuant to SMC 25.09.060.B.3, Application Submittal Requirements, General Requirements and Development Standards, permanent visible markers shall be placed along the top of the steep-slope buffer to delineate the buffer no build area and must be shown and described on the plat prior to recording. The markers shall be either reinforcing steel or metal pipe driven securely into the ground with a brass cap affixed to the top similar to survey monuments. The brass cap shall be visible at the ground surface and indicate the purpose of the marker. Markers shall be placed at all points along the buffer delineation where the buffer changes direction from a straight line, exclusive of the exempted access area. Markers must be in place before issuance of this short subdivision permit.

Based on the above findings and condition, this short plat conforms to the applicable provisions of SMC 25.09

6. *Is designed to maximize the retention of existing trees;*

The proposed lot shapes and boundary line locations were configured as proposed to allow the creation of an additional lot for the future construction of a single-family structure that would take advantage of the westerly views to Puget Sound and the Olympic Mountains and also "fit" into the housing market niche for large lot view homes in the immediate area. Another platting configuration available would be to create a lot behind the existing large house, which would not capture the view potential inherent in the south portion of the parent lot and also significantly change the character of the entry drive and street side yard of the existing house. The proposed configuration was therefore assessed for its potential to maximize the retention of existing trees on proposed Lot B.

There are approximately fifty-five trees of a variety of species on the area of proposed Lot B to the east of the ECA areas. According to the submitted plans these include three Douglas Firs (*Pseudotsuga Menziesii*) of thirty-six caliper inches, trees sometimes to be considered *exceptional* and therefore potentially requiring protection (Directors Rule 6-2001). These are listed as having a caliper inch size of 38 inches and two at 40 inches. Further examination of these trees by the City Arborist showed that none of these should be considered *exceptional* trees for the following reasons: The 38 inch specimen is actually 33 caliper inches and has a co-dominant top, thus increasing the likelihood that it will split in the future. One 40 inch specimen, although 38 inches in size, has an unnatural bend in its trunk, thus its

long term survival is not assured. The other 40 inch specimen is actually 34 caliper inches. These three trees therefore do not require special protection under the tree preservation ordinance.

The non-ECA portion of the proposed lot is approximately 24,000 square feet in area (25,475 square feet of total flat area less approximately 1,500 square feet for a minimum 15-foot buffer along the top of the steep slope). The submitted plans show the footprint of a 7,000 square foot house that could be built on the eastern half of the non-ECA area. This likely footprint would require the removal of approximately 20 trees, while leaving approximately 35 trees on approximately 17,000 square feet of land area remaining on the eastern portion of the site. Many additional trees are located down-slope on the remaining western portion of the site.

Based on the site constraints and the anticipated retention of the majority of the existing trees on the buildable portion of the lot, this proposed short plat meets the intention of this criterion.

7. *Conformance to the provisions of Section 23.24.045, Unit lot subdivisions, when the short subdivision is for the purpose of creating separate lots of record for the construction and/or transfer of title of townhouses, cottage housing, clustered housing, or single-family housing.*

This criterion is not applicable to this short subdivision.

DECISION - SHORT SUBDIVISION

The proposed Short Subdivision is **CONDITIONALLY GRANTED**.

ANALYSIS - SEPA

The proposal site contains the following types of Environmentally Critical Areas: *steep slope, known and potential slide, and wildlife habitat conservation*, thus environmental review resulting in a Threshold Determination is required pursuant to the Seattle State Environmental Policy Act (SEPA), WAC 197-11, and the Seattle SEPA Ordinance (Seattle Municipal Code Chapter 25.05).

SMC 25.05.908 requires that the scope of environmental review of projects within critical areas shall be limited to: 1) documenting whether the proposal is consistent with the City's Environmentally Critical Areas (ECA) regulations in SMC 25.09; and 2) Evaluating potentially significant impacts on the critical area resources not adequately addressed in the ECA regulations. This review includes identifying additional mitigation measures needed to protect the ECA in order to achieve consistency with SEPA and other applicable environmental laws.

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated October 15, 2003. The information in the checklist, public comment, and the experience of the lead agency with review of similar projects form the basis for this analysis and decision. As indicated in the checklist, this action will not result in adverse impacts to the environment.

The proposed short plat will divide an existing large lot with extensive Environmentally Critical Areas into two lots. The ECA areas are on the western three-fifths of the parent and proposed lots, and begin at the top of the steep bluff and extend to the shoreline of Puget Sound. There are substantial buildable areas on both proposed lots outside of all ECA's and their required minimum 15 foot buffer (approximately 67,546 square feet of buildable area for proposed Lot A and approximately 23,975 square feet of buildable area for proposed Lot B). The submitted geotechnical report and evaluation indicate that these non-ECA areas are geotechnically viable for the construction of a single-family residence.

Based on the location of all ECA areas outside of the of buildable area of proposed Lot B and the aforementioned geotechnical information, the proposed configuration will divide the lot in such a way that are not likely to have any adverse impact on the Environmentally Critical Areas, therefore no mitigation of this proposal under SEPA is warranted.

DECISION - SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

- [X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030 (2) (C).
- [] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030 (2) (C).

CONDITIONS - SEPA

None.

CONDITIONS – SHORT SUBDIVISION

Conditions of Approval Prior to Recording

The owner(s) and/or responsible party(s) shall:

1. Submit the final recording forms for approval and any necessary fees.
2. Include the conditions of approval outlined above from the Seattle Fire Department on the face of the plat.

3. A minimum 15-foot buffer easement at the top of the steep slope area is to be shown on the face of the plat to be recorded. A larger buffer may later be required based on ECA review of future building plans and will be determined at time of building permit application.
4. Install permanent visible markers along the top of the steep-slope buffer to delineate the buffer no build area. Show and describe these on the face of the plat. Markers must be in place before issuance of this short subdivision permit.
5. Submit an ECA Covenant per SMC 25.09.240.A to the land use planner for review and approval prior to recording.
6. Change "Guest House" to "Accessory Structure" and remove building footprint outline for proposed Lot B from the face of the plat.

Signature: (signature on file) Date: June 21, 2004

Art Pederson, Land Use Planner
Department of Planning and Development